

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE NO.401 OF 2016

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This Contempt Case is filed alleging violation of the order passed in WA.No.576 of 2013 dated 09.12.2014.

In the aforesaid order, the Division Bench modified the order of the learned Single Judge and the award in ID.No.54 of 2003, and directed the appellant to reinstate the workman into service; to pay back-wages in accordance with law; and, in case the workman feels that he is entitled for any other reliefs, such as regularization, it shall be open to him to work out his remedies, in accordance with law.

The order of the Division Bench required the respondent-workman to be reinstated into service, and to be paid back-wages in accordance with law. In the counter affidavit filed by the Mandal Parishad Development Officer, it is stated that the back-wages were calculated earlier from 01.04.2001 till the date of reinstatement by taking the daily wages into consideration; accordingly, an amount of Rs.68,048/- was paid on 02.12.2013 and on 10.01.2014 in two phases by way of cheques; the same were received by the respondent-workman, and he put his signature in acknowledgment thereof; later back-wages were calculated from 01.04.2001 in terms of the amount fixed by the District Level Committee headed by the District Collector from time to time; the amount due, therefore, came to Rs.3,01,193/-; the balance amount of Rs.2,36,145/- was paid to the workman

through cheque on 04.01.2017; and, thereby, they had complied with the order passed by this Court on 09.12.2014. It is also stated that the workman's salary is being paid regularly, and the latest salary drawn by him was on 16.12.2016. While stating that they have not violated the order of this Court, the respondent-contemnor tenders his unconditional apology in case the Court comes to the conclusion that that he had violated the orders of Court.

Sri M.Pitchaiah, learned counsel for the petitioner, would submit that while the order, violation of which is alleged in the present Contempt Case, required the respondents to pay back-wages to the petitioner in accordance with law, he has admittedly not been paid wages for Public Holidays and Sundays; even otherwise, compliance of the order is belated; and while the order of this Court is dated 09.12.2014, payment was made only on 04.01.2017 i.e. after more than two years.

With regards belated compliance, it is necessary to note that back-wages were initially paid to the petitioner on 02.12.2013 for a sum of Rs.68,048/-, and it is the balance amount of Rs.2,36,145/-, which was computed in terms of the wages fixed by the District Level Committee headed by the District Collector, and was paid on 04.01.2017. It is only after the order was received by the respondents, were they required to comply with the order. It is evident from the records placed before us that the petitioner submitted a representation only on 11.06.2015. The delay in compliance must only be computed thereafter, and not prior thereto. While there appears to be some delay in compliance, we are satisfied that it is neither deliberate nor wilful.

While the petitioner claims to be entitled for wages even on Public Holidays and Sundays, the fact remains that he is a daily wage employee. While this Court, no doubt, directed that he be paid his back-wages, the question whether he is entitled for back-wages even for Public Holidays and Sundays, in the absence of specific order by this Court in this regard, cannot be examined in contempt proceedings. If the petitioner has any grievance on this score, it is always open to him to institute independent legal proceedings seeking payment of the said amount. Non-payment of wages for Public Holidays and Sundays to a daily wage employee cannot be understood as a wilful and deliberate violation of the order necessitating action being taken against the respondents under the Contempt of Courts Act, 1971. We see no reason, therefore, to proceed against the respondents under the Contempt of Courts Act.

The Contempt Case is, accordingly, closed. Miscellaneous applications, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(CHALLA KODANDA RAM, J)

17th March 2017
RRB